DISTRICT OF COLUMBIA

OFFICIAL CODE

2001 EDITION

Volume 16

Title 31

Insurance and Securities
Chapters 10 to End

JUNE 2013 SUPPLEMENT

LexisNexis®

5442910

ISBN 978-0-7698-6590-4 (Volume 16)

ISBN 978-0-7698-6495-2 (Set)

Matthew Bender & Company, Inc.
701 East Water Street, Charlottesville, VA 22902
www.lexisnexis.com
Customer Service: 1-800-833-9844

(Pub.45948)

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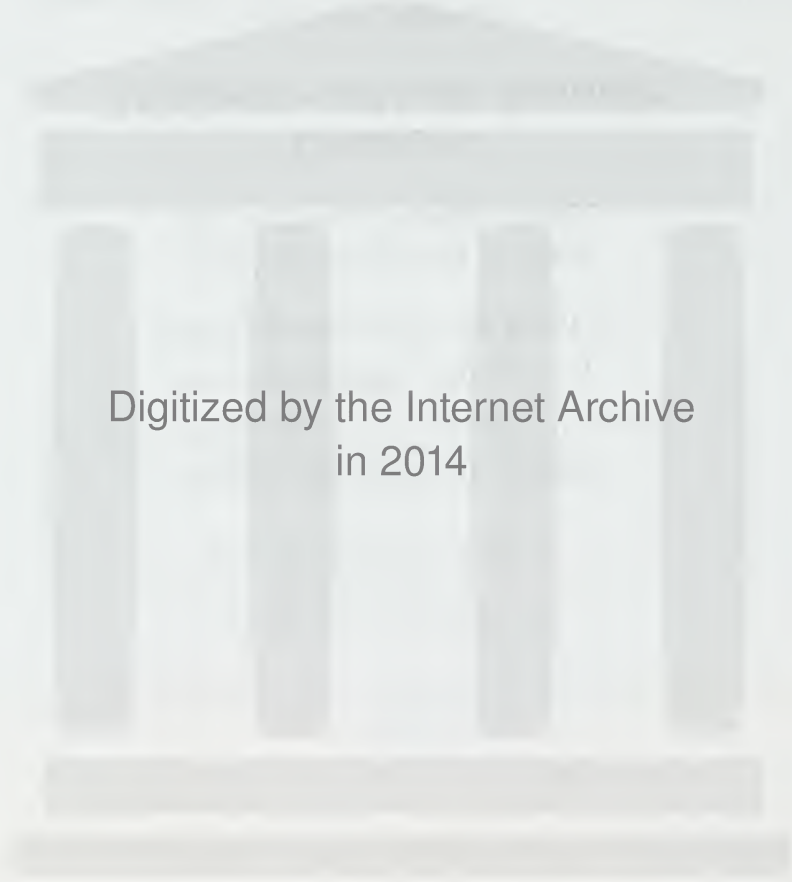

PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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June, 2013 LexisNexis

DIVISION V. LOCAL BUSINESS AFFAIRS.

TITLE 31. INSURANCE AND SECURITIES.

SUBTITLE II. REGULATION OF INSURANCE INDUSTRY GENERALLY.

SUBTITLE III. FIRE, CASUALTY, MARINE, MOTOR VEHICLE AND RELATED INSURANCE.

SUBTITLE IV. HEALTH AND RELATED INSURANCE.

SUBTITLE II. REGULATION OF INSURANCE INDUSTRY GENERALLY.

Chapter 22A. Unfair Insurance Trade Practices.

§ 31-2231.11. Unfair discrimination.

(a) No person shall commit or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for a life insurance policy or contract, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the policy or contract.

(b) No person shall commit or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, fees, or rates charged for a policy or contract of accident or health insurance; in the benefits payable under a policy or contract of accident or health insurance; in any of the terms or conditions of the policy or contract of accident or health insurance; or in any other manner. This section shall not prohibit a fee or charge for insurance premium payment plans, regardless of the number of installments involved.

(b-1) For the purposes of subsections (a) and (b) of this section, no person shall inquire, directly or indirectly, as to whether an insured or applicant is, or

has been, the victim of an intrafamily offense, sexual assault, dating violence, or stalking, or make use of information as to an insured or applicant's status as a victim of an intrafamily offense, sexual assault, dating violence, or stalking; provided, that this subsection shall not prohibit a person from asking about a medical condition or from using medical information to underwrite or to carry out its duties under a policy, even if the medical information is related to a medical condition that the person knows or has reason to know is related to an intrafamily offense, sexual assault, dating violence, or stalking, to the extent otherwise permitted under this chapter or applicable law. For purposes of this subsection, the term "intrafamily offense" shall have the same meaning as provided in § 16-1001(8).

(c) No person shall refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of marital status, race, color, personal appearance, sexual orientation, gender identity or expression, matriculation, political affiliation, or an individual's status as a victim of an intrafamily offense, sexual assault, dating violence, or stalking. Nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits or prohibit or limit the operation of fraternal benefit societies. For the purposes of this subsection, the term "matriculation" shall have the same meaning as in § 2-1401.02(18).

(d) No person shall terminate or modify coverage, or refuse to issue or refuse to renew, a property and casualty policy or a life, health, or annuity policy, solely because the applicant or insured, or an employee of either, is mentally or physically impaired. A termination, modification, or refusal shall be based on sound actuarial principles or related to actual or reasonably anticipated experience. This subsection shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of an insurance policy or contract.

(e) No person shall refuse to insure an individual solely because another insurer has refused to write a policy or has cancelled or has refused to renew an existing policy in which the individual was named an insured. This subsection shall not prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance.

(Apr. 3, 2001, D.C. Law 13-265, § 111, 48 DCR 1225; Oct. 3, 2001, D.C. Law 14-28, § 2702(a), 48 DCR 6981; June 25, 2008, D.C. Law 17-177, § 16(b), 55 DCR 3696; Apr. 8, 2011, D.C. Law 18-360, § 202(a), 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 86, 59 DCR 6190.)

Section references. — This section is referenced in § 31-2231.12 and § 31-2231.24.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "accident or health insurance" for the third occurrence of "health insurance" in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE III. FIRE, CASUALTY, MARINE, MOTOR VEHICLE AND RELATED INSURANCE.

CHAPTER 24. COMPULSORY/NO-FAULT MOTOR VEHICLE INSURANCE.

§ 31-2403. Required insurance.

(a) *Residents of District.* — Each owner of a motor vehicle which is required to be registered or for which a reciprocity sticker is required in the District shall maintain insurance required by § 31-2406. This insurance shall be in effect continuously during the motor vehicle's period of registration or reciprocity.

(b) *Nonresidents of District owning or operating motor vehicles in District.* —

(1) A person who is not a resident of the District who owns a motor vehicle shall not operate the motor vehicle, or permit the motor vehicle to be operated in the District, unless insurance required by § 31-2406 is provided and maintained during the time that the motor vehicle is present in the District.

(2) The Director shall require adequate proof of insurance as required by this section for nonresident owners or operators prior to the return of motor vehicles immobilized by the Department to the nonresident owners or operators.

(c) *Form.* —

(1) Any policy of motor vehicle insurance which is represented or sold as providing, pursuant to this chapter or pursuant to the coverage required by Chapter 13 of Title 50, security covering a motor vehicle or required insurance shall be deemed to provide insurance for payment of the benefits required by this chapter.

(2) The insurance required by this section may be provided under a valid policy of insurance issued by an insurer authorized to transact business in the District or by any other method approved by the Commissioner.

(d) *Administration of requirement.* —

(1)(A) Every person applying to register a motor vehicle in the District or applying for a reciprocity sticker for a motor vehicle in the District shall certify to the Director, on a form supplied by the Director, that the insurance required by this chapter is in effect with respect to that motor vehicle.

(B) The Director may request an insurer to verify any information provided pursuant to subparagraph (A) of this paragraph. The insurer shall accurately respond to the Director's request within 10 business days.

(C) The Director may request that the person who has certified to the Director pursuant to subparagraph (A) of this paragraph submit proof, within 15 business days, that the required insurance is in effect.

(2)(A) The Director shall suspend the reciprocity sticker or vehicle registration certificate issued to the owner of a motor vehicle if the required insurance is not in effect with respect to the motor vehicle. The suspension

shall take effect 30 days after service by regular mail of a notice of proposed suspension, unless the person provides proof that he or she has an effective motor vehicle insurance policy and has paid all applicable fines. The person shall also be advised that the fine established pursuant to § 31-2413(b)(2) shall be imposed unless, within the 30 day period, the person proves that the required insurance was maintained during the registration or reciprocity period. The suspension shall remain in effect until the person appears at the Department with proof of an effective motor vehicle insurance policy and pays a reinstatement fee and the applicable fine.

(i)-(iii) Repealed.

(iv) If a person's registration certificate has been suspended as provided for in this subsection, the registration certificate shall not be transferred and the motor vehicle with respect to which the registration certificate was issued shall not be registered in any other name until the Director is satisfied that the transfer of the registration certificate is in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(v) Nothing in this section shall affect the rights of any conditional vendor, chattel mortgagee or lessor of the motor vehicle.

(vi) The Director shall suspend or revoke the registration certificate of any motor vehicle transferred in violation of the provisions of this section.

(vii) Decisions of the Director shall be subject to review by the Mayor. Orders and decisions of the board of review shall be appealable pursuant to § 2-510. For the purposes of this sub-subparagraph, the phrase "review by the Mayor" shall mean a review by any board of review established by the Mayor pursuant to this chapter to review the order or act of any agent of the Mayor.

(B) A motor vehicle with respect to which the registration certificate or reciprocity sticker is suspended under this paragraph may be immobilized by the Department or the Metropolitan Police Department until the insurance required by this section is in effect.

(C) The registration certificate or reciprocity sticker and the tags of any motor vehicle, the registration or reciprocity of which is suspended under this paragraph, shall be recovered whenever possible.

(3)(A) The Director shall require all insurers authorized to sell motor vehicle insurance in the District to furnish to the Department notice of motor vehicle insurance cancellations within 30 days after the effective date of cancellation. Upon receipt of a notice of cancellation concerning a motor vehicle insurance policy on a vehicle registered in the District, the Director shall notify the person in whose name the vehicle is registered that the Director will revoke or cancel the registration of the vehicle pursuant to law.

(B) The insurers shall provide information and cooperate in prosecutions under § 31-2413.

(C) The insurers shall cooperate with, assist, and advise the Director with respect to the detection of persons who have applied for or obtained registration certificate or reciprocity stickers for motor vehicles in the District without first obtaining the insurance, or who cancel or otherwise terminate insurance subsequent to the issuance of a registration certificate or reciprocity stickers.

(4)(A) Repealed.

(B) Payments from the Administration Fund shall be made for the benefit of the Commissioner and for the benefit of the Department but no payments shall be made for costs incurred by either the Department or the Commissioner prior to September 18, 1982, or which would probably have been incurred if this chapter had not been enacted.

(5)(A) On the first day of each month, an insurer authorized to sell motor vehicle insurance in the District shall furnish to the Director the following records pertaining to each vehicle insured by it in the District:

(i) The owner's full name and address;

(ii) The insurance policy number or binder number;

(iii) The commencement date of the motor vehicle insurance policy;

(iv) The expiration or termination date of the motor vehicle insurance policy;

(v) The operator's license number, if known;

(vi) The corresponding vehicle identification number, if known; and

(vii) Other relevant information the Director may require.

(B) The records required by this paragraph shall be submitted or transmitted in electronic files and in compliance with procedures established by the Department.

(C) In lieu of requiring insurers to satisfy the requirements of subparagraph (A) of this paragraph, the Director may allow insurers to verify insurance through an online insurance verification system.

(Sept. 18, 1982, D.C. Law 4-155, § 4, 29 DCR 3491; Mar. 14, 1985, D.C. Law 5-159, § 13(a), 32 DCR 30; Mar. 4, 1986, D.C. Law 6-96, § 2(b), 32 DCR 7245; May 21, 1997, D.C. Law 11-268, § 10(v), 44 DCR 1730; Apr. 27, 2001, D.C. Law 13-289, § 101(b), 48 DCR 2057; Oct. 23, 2012, D.C. Law 19-186, § 2, 59 DCR 10147.)

Section references. — This section is referenced in § 31-2413.

Effect of amendments.

The 2012 amendment by D.C. Law 19-186 added (d)(5).

Legislative history of Law 19-186. — Law 19-186, the "Compulsory/No Fault Motor Vehicle Insurance Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-194. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 6, 2012, it was assigned Act No. 19-439 and transmitted to Congress for its review. D.C. Law 19-186 became effective on Oct. 23, 2012.

CHAPTER 25. FIRE, CASUALTY, AND MARINE INSURANCE.

Subchapter II. Powers and Duties of the Commissioner

Subchapter II. Powers and Duties of the Commissioner.

§ 31-2502.28. Rate and form filing requirements for accident and health policies.

The Commissioner may require that the provisions and conditions contained in any policy of insurance against loss or damage from sickness or bodily injury or death of the insured by accident issued by, and the rate-making and filing obligations of, any company authorized by this chapter to transact business in the District be made to conform to the requirements prescribed under § 31-4712.

(Oct. 9, 1940, 54 Stat. 1076, ch. 792, ch. II, § 28; May 21, 1997, D.C. Law 11-268, § 10(r)(2), 44 DCR 1730; Apr. 8, 2011, D.C. Law 18-360, § 501, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 87, 59 DCR 6190.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-360 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE IV. HEALTH AND RELATED INSURANCE.

CHAPTER 31D. HEALTH BENEFIT EXCHANGE.

Sec.
31-3171.18. Applicability.

§ 31-3171.18. Applicability.

(a) This chapter shall apply through September 30, 2014.

(b) Beginning on October 1, 2014, this chapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

(Mar. 2, 2012, D.C. Law 19-94, § 19, 59 DCR 213; Sept. 20, 2012, D.C. Law 19-168, § 7015, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 7015 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7015 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act

No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 7016 of D.C. Law 19-168 provided that § 7015 of the act shall apply as of June 19, 2012.

CHAPTER 33A. HEALTH INSURANCE RATEMAKING.

§ 31-3311.02. Aggregate medical loss ratios; dividend; and rating bands.

(a) For each calendar year, an insurer shall maintain an aggregate minimum medical loss ratio, as defined by rule, of 80% for individual policies, as defined by rule, 80% for small group policies, as defined by rule, and 85% for large group policies, as defined by rule. The medical loss ratio shall be defined by the Commissioner and shall be determined by rule in a manner and generally consistent with the same standards as the medical loss ratio defined in section 2718(b) of the Public Health Service Act, approved March 23, 2010 (124 Stat. 136; 42 U.S.C. § 300gg-18(b)). No later than May 31st of each year, insurers shall file an annual report with the Commissioner, in a manner and on a form prescribed by Commissioner, indicating the medical loss ratio calculated for all policies and contracts written for the previous calendar year.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this chapter when combined with actual experience to date.

(c) In each case where the insurer fails to substantially comply with the medical loss ratio requirements set forth in subsection (a) of this section, the insurer shall issue a rebate for all policyholders in an amount determined in accordance with section 2718(b)(1)(B) of the Public Health Service Act, approved March 23, 2010 (124 Stat. 136; 42 U.S.C. § 300gg-18(b)(1)(B). The annual report required by this section shall include the insurer's calculation of the rebates and an explanation of the insurer's plan to issue rebates. The instructions and format for calculating and reporting medical loss ratios and issuing rebates shall be prescribed by the Commissioner by rule. The Commissioner shall establish, by rule, procedures for the distribution of a rebate in the event of cancellation or termination by a policyholder.

(d) A plan of individual or small group health insurance rates shall not include a standard rate for any age that is more than 300% of the standard rate for the age with the lowest rate in the same plan and the standard rate for any age shall not be more than 104% of the standard rate for the previous age.

(e) An insurer's failure to comply with the rebate requirements in subsection (c) of this section or rating band requirements set forth in subsection (d) of this section shall constitute an unfair or deceptive act or practice and shall be subject to the penalties in Chapter 22A of this title [§ 31-2231.01 et seq.].

(f) The Commissioner may audit any insurer to assure compliance with this

section. Insurers shall retain at their principal place of business information necessary for the Commissioner to perform compliance audits.

(Apr. 8, 2011, D.C. Law 18-360, § 103, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 85(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "this title" for "this act" [translated as "this chapter"] in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3311.05. Commissioner's authority to rescind approved rates.

(a) The Commissioner may, at any time, require any insurer subject to this chapter to demonstrate that its rates and method for setting rates are in compliance with this chapter, notwithstanding that the filings then in effect had previously been approved. Any rates previously approved by the Commissioner, but subsequently disapproved under this chapter, shall be considered disapproved on a prospective basis only from the date of the notice of disapproval, unless the insurer made a material misrepresentation in its contract form or rate filings, in which case the rates shall be deemed disapproved on a retroactive basis.

(b) If, at any time subsequent to the approval of rates, the Commissioner finds that a filing does not meet the requirements of this chapter, the Commissioner shall issue an order to the insurer specifying why the filing fails to meet the requirements of this chapter, and, stating when, within a reasonable period thereafter, the filing shall be no longer effective. The order shall not affect any subscriber contract, group certificate, or other contract made or issued prior to the expiration of the period set forth in the order. The Commissioner may, prior to issuing the order and if requested by the insurer, hold a hearing upon not less than 10 business days' written notice to the insurer specifying the matters to be considered at the hearing.

(c) For violations of this chapter, the Commissioner may order any relief which is appropriate, including disapproving a rate and awarding interest.

(Apr. 8, 2011, D.C. Law 18-360, § 106, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 85(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "this title" for "this act" [translated as "this chapter"] in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 34. HEALTH MAINTENANCE ORGANIZATIONS.

Sec.
31-3422. Regulations.

§ 31-3422. Regulations.

The Commissioner, within 120 days of April 9, 1997, shall issue rules and regulations necessary to implement the provisions of this chapter. To facilitate the timely issuance of rules and regulations, the Commissioner may contract out for the drafting of rules and regulations pursuant to emergency procurement provisions set forth in § 2-354.05.

(Apr. 9, 1997, D.C. Law 11-235, § 23, 44 DCR 818; Sept. 26, 2012, D.C. Law 19-171, § 215, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "set forth in § 2-354.05" for "set forth in § 2-303.12."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 35. HOSPITAL AND MEDICAL SERVICES CORPORATIONS REGULATION.

Sec.
31-3506. Surplus requirements.
31-3514. Open enrollment.
31-3514.02. Establishment of Healthy DC and Health Care Expansion Fund.

§ 31-3506. Surplus requirements.

(a) At the time of issuance of a certificate of authority under this chapter and at all times thereafter until risk-based capital regulations for hospital and medical services corporations are promulgated, a corporation must possess surplus in an amount which is the greater of $5,000,000 or 8.0% of the total amount of premiums for insured risk received by the corporation in the preceding calendar year. The total amount of premiums for insured risk shall not include premiums collected for federal health benefit programs that have a separate reserve fund held by the federal government.

(b) The surplus requirement of 8.0% shall be phased-in following April 9, 1997 as follows:

(1) Year one — 40% of the surplus requirement in subsection (a) of this section;

(2) Year two — 60% of the surplus requirement in subsection (a) of this section;

(3) Year three — 80% of the surplus requirement in subsection (a) of this section; and

(4) Year four — 100% of the surplus requirement in subsection (a) of this section.

(c) The Mayor shall have the authority to require the differentiation of the corporation's activities into risk and nonrisk business for the purpose of determining the corporation's income that is derived from premiums for insured risk and from other sources.

(d) Notwithstanding the provisions of subsection (a) of this section, at the time of issuance of a certificate of authority under this chapter and at all times thereafter, a corporation shall be subject to the provisions of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor, and must maintain at all times such surplus as is determined to be necessary under those regulations.

(e) The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business. The surplus may be considered excessive only if:

(1) The surplus is greater than the appropriate risk-based capital requirements as determined by the Commissioner for the immediately preceding calendar year; and

(2) After a hearing, the Commissioner determines that the surplus is unreasonably large and inconsistent with the corporation's obligation under § 31-3505.01.

(f) In determining whether the surplus of the corporation that is attributable to the District is excessive, the Commissioner shall take into account all of the corporation's financial obligations arising in connection with the conduct of the corporation's insurance business, including premium tax paid and the corporation's contribution to the open enrollment program required by § 31-3514 and payments and expenditures pursuant to a public-private partnership.

(g)(1) If the Commissioner determines that the surplus of the corporation is excessive, the Commissioner shall order the corporation to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner.

(2) A plan submitted pursuant to paragraph (1) of this subsection may consist entirely of expenditures for the benefit of current subscribers of the corporation.

(h) When determining what surplus is attributable to the District and whether the surplus is excessive, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

(i) If the Commissioner determines that the corporation failed to submit a plan as ordered under subsection (g) of this section within a reasonable period or failed to execute within a reasonable period a plan already submitted under subsection (g) of this section, the Commissioner shall deny for 12 months all premium rate increases for subscriber policies written in the District sought by

the corporation pursuant to § 31-3508 and may issue such orders as are necessary to enforce the purposes of this chapter.

(j) The existence of a public-private partnership shall not preclude the Commissioner's surplus evaluation of the corporation or diminish the Commissioner's authority to issue directives to the corporation pursuant to the evaluation.

(Apr. 9, 1997, D.C. Law 11-245, § 7, 44 DCR 1158; Mar. 25, 2009, D.C. Law 17-369, § 2(d), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(c), 56 DCR 9182; Sept. 26, 2012, D.C. Law 19-171, § 88(a), 59 DCR 6190.)

Section references. — This section is referenced in § 31-3505.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "§ 31-3505.01" for "§ 31-3505(a)" in (e)(2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3514. Open enrollment.

(a) A corporation issued a certificate of authority under this chapter shall make available to citizens of the District of Columbia an open enrollment program under the terms set forth in this section.

(b) As used in this section, the term:

(1) "Comprehensive individual subscriber contracts" means subscriber contracts, conforming to the requirements of subsection (g) of this section, which are issued to provide basic hospital and medical services, or to provide benefits and indemnification for such services.

(2) "Open enrollment subscriber contracts" means comprehensive individual subscriber contracts issued pursuant to an open enrollment program by a corporation which has a certificate of authority under this chapter and provides coverage to individuals.

(c) A corporation's open enrollment program shall provide for the issuance of open enrollment subscriber contracts without imposition by the corporation of underwriting criteria whereby coverage is denied or subject to cancellation or nonrenewal, in whole or in part, because of an individual's age, health history, medical history, employment status, or, if employed, industry or job classification.

(d) A corporation's open enrollment program shall make open enrollment subscriber contracts available to any individual residing in the District of Columbia, except, that this requirement shall not apply to any individual who is eligible for coverage as an employee of an employer which provides, in whole or in part, basic hospital and medical services, benefits, and indemnification coverage to its employees.

(e) A corporation's open enrollment program shall be available on a year-round basis.

(f) Repealed.

(g) The Mayor may prescribe minimum standards to govern the contents of comprehensive individual subscriber contracts issued pursuant to this section.

Such minimum standards shall ensure that these contracts provide hospital and medical services, or benefits and indemnification for a comprehensive range of health care needs without qualifying exclusions that fail to protect the subscriber under normal circumstances. Such minimum standards shall also ensure that the option of obtaining comprehensive individual subscriber contract coverage is made available to all individuals included within the definition of "open enrollment subscriber contracts" in subsection (b)(2) of this section.

(h) The Mayor may prescribe minimum standards specifically to govern the content of comprehensive individual subscriber contracts issued to individuals who have converted from group subscriber contracts to individual coverage because of termination of the individual's eligibility for group coverage.

(i) A corporation issued a certificate of authority under this chapter shall provide other public services in the District of Columbia consisting of health-related educational support for residents of the corporation's service area who, based upon such educational support, may experience a lesser need for hospital and medical services, or benefits and indemnification for such services.

(j)(1) A corporation shall maintain a separately established rate stabilization fund ("RS Fund") to be used solely to subsidize open enrollment subscribers pursuant to subsections (c) and (d) of this section. A corporation shall deposit an amount necessary and appropriate to maintain the open enrollment program of the corporation pursuant to subsection (k)(1) of this section; provided, that the corporation shall not deduct an aggregate amount exceeding $550,000 of its payment to the RS Fund from the amount otherwise due by the corporation under § 31-205 or § 47-2608(a). The RS Fund shall not be used to pay marketing or promotional expenses associated with the program. Unless the corporation elects to terminate the RS Fund pursuant to subsection (k)(3) of this section, the corporation shall carry over from year to year all unexpended funds in the RS Fund, including interest earned on investment of the funds in the RS Fund.

(2) In the rate filings for the open enrollment program required by § 31-3508, a corporation shall provide documentation to the Mayor confirming the existence of the RS Fund, identifying the amounts paid from the RS Fund to subsidize open enrollment rates, and specifying the RS Fund balance at year end and as of the date of the corporation's filing. The Mayor shall order annually an independent audit of the RS Fund, the expenses of which shall be paid by the corporation. If the Mayor determines, with or without an audit, that all or any portion of the money in the RS Fund is not being used to subsidize open enrollment rates or is not being reasonably set aside in anticipation of projected subsidies of open enrollment rates in future years, the Mayor may order the corporation to pay the revenue not being so used or set aside to the Healthy DC and Health Care Expansion Fund established by § 31-3514.02.

(k) A corporation shall continue to offer the program to each subscriber as long as the subscriber renews his or her coverage under the program.

(l) Any proposed rates filed by a corporation with the Mayor pursuant to § 31-3508 which are to be applied to open enrollment subscriber contracts,

including individual conversion subscriber contracts, shall include a factor crediting for the benefit of this class of subscribers in an amount which assures competitive rates, the revenue which would have been otherwise collected by the District of Columbia government as a premium tax pursuant to § 31-3514(j).

(m) The open enrollment program shall maintain the following affordability and adequacy criteria for individual participants:

(1) Annual premium costs shall not exceed 125% of standard individual market rates and shall be determined once every 12 months.

(2) Cost sharing, deductibles, and co-insurance shall not exceed those in the corporation's most popular policy available to small employers in the District.

(3) Subscriber contracts shall not contain service limitations or lifetime or annual benefit maximums.

(4) Subscriber contracts and contract forms shall be subject to § 31-3508.

(5) Subscriber contracts and contract forms shall not contain exclusions or riders for pre-existing conditions.

(n) A corporation shall prominently advertise the availability of its open enrollment subscriber contracts continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District. The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet.

(o) The corporation shall make the open enrollment program available for a minimum of 2500 subscribers. The corporation shall submit a report annually on October 1 to the Commissioner on the number of subscribers enrolled.

(p) In lieu of the requirements of subsection (m) through (o) of this section, the corporation may enter into a public-private partnership.

(q) The corporation shall submit an annual report to the Mayor regarding the open enrollment program. The Mayor shall determine the format and content of the report; provided, that the report shall include:

(1) Membership distribution by:
  (A) Age;
  (B) Gender;
  (C) Ward;
  (D) Zip code;
  (E) Race/ethnicity;
  (F) Income; and
  (G) The amount of time in the program;
(2) The number of members by contract type;
(3) Program expenditures for:
  (A) Inpatient services;
  (B) Outpatient services;
  (C) Behavioral health services; and
  (D) Prescription drugs;
(4) Average premium;
(5) Premium levels by age; and
(6) The number of members that have reached the:

(A) Out-of-pocket maximum expenditure; and

(B) Annual prescription drug benefit maximum.

(r) The public-private partnership shall be certified by January 31, 2010.

(Apr. 9, 1997, D.C. Law 11-245, § 15, 44 DCR 1158; June 11, 2004, D.C. Law 15-166, § 4(u)(3), 51 DCR 2817; Mar. 2, 2007, D.C. Law 16-192, § 5012(b), 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-369, § 2(f), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(e), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 5023(b), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(b), 59 DCR 6190.)

Section references. — This section is referenced in § 31-205, § 31-3501, § 31-3505, § 31-3506, § 31-3508, § 31-3512, and § 47-2608.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated previously made technical corrections.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3514.02. Establishment of Healthy DC and Health Care Expansion Fund.

(a) There is established as a nonlapsing fund the Healthy DC and Health Care Expansion Fund ("Fund"). All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available to support the Healthy DC Program, established by Chapter 6A of Title 4, and other medical assistance programs administered by the Department of Health Care Finance, without regard to fiscal year limitation, subject to authorization by Congress.

(b) There shall be deposited into the Fund:

(1) All tax revenue generated pursuant to § 31-3514.01;

(2) Any other local funds, including any fees, penalties, or other tax revenues required by District law, including the premium tax imposed on health maintenance organizations, as required by § 31-3403.01.

(3) Annual appropriations, if any;

(4) Federal grant funds;

(5) All fines and penalties collected pursuant to Chapter 6A of Title 4; and

(6) Grants, gifts, or subsidies from public or private sources.

(c) Notwithstanding subsection (a) of this section, for fiscal year 2010, up to $3.25 million from the Fund shall be utilized to support the following one-time allocations:

(1) An amount of $2.5 million shall support a grant to an acute care pediatric hospital in the District for the purpose of supporting operational expenses associated with the new pediatric emergency facility located at the United Medical Center; and

(2) Up to $750,000 to support operational expenses associated with the delivery of health care services at the D.C. Jail.

(Apr. 9, 1997, D.C. Law 11-245, § 15b, as added Mar. 2, 2007, D.C. Law 16-192, § 5012(c), 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 5050, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 138, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 5131, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223,§ 5023(c), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(c), 59 DCR 6190.)

Section references. — This section is referenced in § 4-632, § 4-637, § 31-3403.01, § 31-3501, § 31-3514, § 47-368.06, and § 47-2002.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.